

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Mt. Carmel Public Utility Co.	:	
	:	
Petition for approval of Residential	:	01-0525
Delivery Services Implementation Plan	:	
under 220 ILCS 5/16-105.	:	
	:	(Cons.)
Mt. Carmel Public Utility Co.	:	
	:	
Petition for Approval of Residential	:	01-0625
Delivery Service Tariffs; and	:	
Modification of Sheets of Delivery	:	
Service Terms and Conditions Under	:	
220 ILCS 5/16-108.	:	

ORDER

By the Commission:

I. PROCEDURAL HISTORY

Pursuant to Articles IX and XVI of the Public Utilities Act ("Act"), 220 ILCS 5/1-101 et seq., on August 1, 2001, Mt. Carmel Public Utility Co. ("Mt. Carmel"), filed a petition with the Illinois Commerce Commission ("Commission") requesting approval of its residential delivery services implementation plan under Section 16-105 of the Act. Mt. Carmel then filed with the Commission on September 28, 2001 a petition for approval of residential delivery service tariffs and modifications to its delivery service terms and conditions under Section 16-108.

Pursuant to proper notice, status hearings were held in these matters before a duly authorized Administrative Law Judge of the Commission in Springfield, Illinois on August 28 and October 11, 2001. At the latter status hearing, these dockets were consolidated. Petitions to Intervene filed by MidAmerican Energy Co. and Illinois Power Company were granted. Neither intervenor, however, was an active participant. The evidentiary hearing was held on December 19, 2001. Direct and rebuttal testimony were submitted on behalf of Mt. Carmel by Dan E. Long, a consultant with SPI Energy Group. Sheena Kight, Thomas Q. Smith, John W. Hendrickson, and Dr. Eric P. Schlaf provided direct testimony on behalf of Staff. The record was marked "Heard and Taken" at the end of the December 19 hearing. Staff submitted an Initial Brief on one outstanding issue. Mt. Carmel submitted a Reply Brief accepting Staff's position. There are no contested issues in these matters.

II. LEGAL STANDARDS

Mt. Carmel's Delivery Service Tariffs were submitted to the Commission for approval pursuant to Section 16-108 of the Act. Section 16-108 (a) through (e) and (i) provide:

Sec. 161-108. Recovery of costs associated with the provision of delivery services.

(a) An electric utility shall file a delivery services tariff with the Commission at least 210 days prior to the date that it is required to begin offering such services pursuant to this Act. An electric utility shall provide the components of delivery services that are subject to the jurisdiction of the Federal Energy Regulatory Commission at the same prices, terms and conditions set forth in its applicable tariff as approved or allowed into effect by that Commission. The Commission shall otherwise have the authority pursuant to Article IX to review, approve, and modify the prices, terms and conditions of those components of delivery services not subject to the jurisdiction of the Federal Energy Regulatory Commission, including the authority to determine the extent to which such delivery services should be offered on an unbundled basis. In making any such determination the Commission shall consider, at a minimum, the effect of additional unbundling on (i) the objective of just and reasonable rates, (ii) electric utility employees, and (iii) the development of competitive markets for electric energy services in Illinois.

(b) The Commission shall enter an order approving, or approving as modified, the delivery services tariff no later than 30 days prior to the date on which the electric utility must commence offering such services. The Commission may subsequently modify such tariff pursuant to this Act.

(c) The electric utility's tariffs shall define the classes of its customers for purposes of delivery service charges. Delivery services shall be priced and made available to all retail customers electing delivery services in each such class on a non-discriminatory basis regardless of whether the retail customer chooses the electric utility, an affiliate of the electric utility, or another entity as its supplier of electric power and energy. Charges for delivery services shall be cost based, and shall allow the electric utility to recover the costs of providing delivery services through its charges to its delivery service customers that use the facilities and services associated with such costs. Such costs shall include the costs of owning, operating and maintaining transmission and distribution facilities. The Commission shall also be authorized to consider whether, and if so to what extent, the following costs are appropriately included in the electric utility's delivery services rates: (i) the costs of that portion of generation facilities used for the production and absorption of reactive

power in order that retail customers located in the electric utility's service area can receive electric power and energy from suppliers other than the electric utility, and (ii) the costs associated with the use and redispatch of generation facilities to mitigate constraints on the transmission or distribution system in order that retail customers located in the electric utility's service area can receive electric power and energy from suppliers other than the electric utility. Nothing in this subsection shall be construed as directing the Commission to allocate any of the costs described in (i) or (ii) that are found to be appropriately included in the electric utility's delivery services rates to any particular customer group or geographic area in setting delivery services rates.

(d) The Commission shall establish charges, terms and conditions for delivery services that are just and reasonable and shall take into account customer impacts when establishing such charges. In establishing charges, terms and conditions for delivery services, the Commission shall take into account voltage level differences. A retail customer shall have the option to request to purchase electric service at any delivery service voltage reasonably and technically feasible from the electric facilities serving that customer's premises provided that there are not significant adverse impacts upon system reliability or system efficiency. A retail customer shall also have the option to request to purchase electric service at any point of delivery that is reasonably and technically feasible provided that there are not significant adverse impacts on system reliability or efficiency. Such requests shall not be unreasonably denied.

(e) Electric utilities shall recover the costs of installing, operating or maintaining facilities for the particular benefit of one or more delivery services customers, including without limitation any costs incurred in complying with a customer's request to be served at a different voltage level, directly from the retail customer or customers for whose benefit the costs were incurred, to the extent such costs are not recovered through the charges referred to in subsections (c) and (d) of this Section.

(i) An electric utility shall be entitled to add to the bills of delivery services customers charges pursuant to Section 9-221, 9-222 (except as provided in Section 9-222.1), and Section 16-114 of this Act, Section 5-5 of the Electricity Infrastructure Maintenance Fee Law, Section 6-5 of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997, and Section 13 of the Energy Assistance Act of 1989.

III. REVENUE REQUIREMENTS

A. Test Year

Mt. Carmel used a historical test year represented by the 12 months ending December 31, 2000 in developing its residential delivery service tariffs. No party objected to the test year selected by Mt. Carmel. The Commission finds Mt. Carmel's proposed test year reasonable for purposes of establishing delivery services rates in this proceeding.

B. Rate Base and Operating Income

Mt. Carmel witness Long presented in his direct testimony (MCPU Ex 1.0, Schedule B-1) a total rate base in the amount of \$9,213,814. Staff witness Smith offered no changes and recommended that Mt. Carmel's proposed rate base be approved. The Commission agrees that for purposes of this proceeding a total rate base in the amount of \$9,213,814 is appropriate.

Mr. Long also proposed a total delivery services revenue requirement of \$4,934,344, which would result in net operating income in the amount of \$990,482 (MCPU Ex 1.0, Schedule C-1). Staff witness Smith in Staff Ex. 2.0 made two accounting adjustments to Mt. Carmel's proposed operating income which reduce the revenue requirement. Mr. Smith proposed to reduce income tax expense to reflect the actual revenues and expenses included in delivery services operations. (ICC Staff Ex. 2.0, p. 6) Mr. Smith's second adjustment was to restate wage expenses to reflect electric operations and to eliminate expense more properly associated with gas operations. (ICC Staff Ex. 2.0, p. 7) The resulting total revenue requirement is \$4,670,868 as reflected on ICC Staff Ex. 2.0, Schedule 2.1 and net operating income equals \$990,485. For purposes of this proceeding the Commission finds that \$4,670,868 is the proper revenue requirement.

IV. COST OF CAPITAL

Mt. Carmel proposed to adopt an overall cost of capital for residential delivery services of 10.75%. Staff witness Kight also proposed in her testimony (Staff Ex. 1.0) that the overall cost of capital be set at 10.75% as follows:

	<u>Capital Structure Ratio</u>	<u>Cost</u>	<u>Liquidity Premium</u>	<u>Weighted Cost</u>
Long-term Debt	42.50%	8.50%		3.61%
Common Equity	<u>57.50%</u>	10.97%-11.87%	1.0%	<u>6.88%-7.40%</u>
Total	100.00%			10.49% -11.01%

Midpoint Estimate - 10.75%

As a consequence, Mt. Carmel and Staff are in agreement as to the cost of capital applicable to the recovery of costs associated with residential delivery services.

Mr. Long stated in his rebuttal testimony (MCPU Ex. 1.0R) that even though Mt. Carmel and Staff proposed the same capital structure and cost of capital, that in future proceedings sample companies used for comparison and the imputations made regarding access to capital by Mt. Carmel may need to be addressed differently. Mr. Long further stated under cross-examination that he currently had no replacement suggestions, but was merely laying the foundation for future discussions with Staff on the type of analysis that may be applicable to Mt. Carmel.

The Commission accepts the foregoing capital structure proposed by Ms. Kight, and adopted by Mr. Long, for purposes of this proceeding.

V. RATE DESIGN

The proposed electric residential delivery service tariffs were set forth in MCPU Ex. 2.0. These tariffs would yield total revenues equal to \$2,378,250, which is the residential delivery services tariff portion of Mt. Carmel's proposed \$4,934,344 total revenue requirement. The proposed changes contained in the tariffs were based on MCPU Exhibits 3.0, 4.0, and 5.0, which are similar in substance to the schedules used in a standard rate case filing. The structure of the proposed residential delivery service tariffs is identical in form to Mt. Carmel's tariff for residential customers taking bundled electric service. This allows the residential customers who choose to switch to delivery services the use of a familiar tariff with a rate design similar to the bundled rate tariff, thereby allowing ease of understanding and smooth transition. (MCPU Ex. 1.0, p. 4)

MCPU Ex. 3.0 sets forth the schedule showing the calculation of revenue requirements related to residential delivery services. Various adjustments for ratemaking purposes are set forth in MCPU Ex. 3.0.

The customer charge proposed by Mt. Carmel for electric residential delivery service customers was the same as that contained in its bundled tariff for residential electric customers. The remaining residential delivery services revenue requirement proposed was captured in the proposed energy delivery charge of \$0.03793 per kilowatt-hour ("kwh").

Mt. Carmel accepted Staff's adjustments to the revenue requirement. These adjustments, when incorporated into the embedded Cost of Service Study (MCPU Ex. 5.0 and MCPU Ex. 5.0R), result in a residential delivery service revenue requirement of \$2,251,347. This resulted in a customer charge of \$5.21 and an associated energy delivery charge of \$0.03487. (MCPU Ex. 1.0R, p. 8) These charges incorporate both the residential delivery service revenue requirement proposed by Staff witness Smith (Staff Ex. 2.0) and the rate design proposed by Staff witness Hendrickson (Staff Ex. 3.0).

The Commission approves the residential delivery service revenue requirement of \$2,251,347, as well as the resulting energy delivery charge of \$0.03487 per kwh and the customer charge of \$5.21.

VI. MODIFICATION OF SHEETS OF DELIVERY SERVICES TERMS AND CONDITIONS

Mt. Carmel proposed in MCPU Ex. 2.0 a modification to sheet number 12 of its existing Terms and Conditions of Delivery Services. The language proposed covers how delivery services customers may change locations within the service area. Also proposed was a modification to sheet number 16 of Mt. Carmel's existing Terms and Conditions of Delivery Services. The language change is to include clarification related to the confirmation of a switch and also to clarify how delivery service customers may return to bundled service. MCPU Ex. 2.0 also proposes a modification to sheet number 21 of its existing Terms and Conditions of Delivery Services to include provisions for customers to obtain Interim Supply Service as a result of inadvertent loss of supply. Staff witness Schlaf had no objection to these changes. (Staff Ex. 4.0, p.3)

The Commission approves the proposed modifications to sheets numbered 12, 16, and 21 of Mt. Carmel's Terms and Conditions of Delivery Services.

VII. RESIDENTIAL DELIVERY SERVICES IMPLEMENTATION PLAN

Mt. Carmel's residential delivery services implementation plan demonstrates how it intends to implement residential delivery services in conformance with Section 16-105 of the Act. The plan sets forth various items such as Customer Information, Transaction Protocol, Retail Electric Suppliers, Switching, Rate Classes, and Transmission. (MCPU Ex. DSIP 1.0) Staff witness Schlaf recommended that the Commission approve Mt. Carmel's implementation plan as submitted, subject to any modifications of Mt. Carmel's delivery services tariffs that the Commission may order in this proceeding. (Staff Ex. 4.0, p. 9)

The Commission finds Mt. Carmel's residential delivery services implementation plan reasonable and approves it.

VIII. ELECTRONIC SIGNATURES AND LETTERS OF AGENCY

The only matter contested in this docket was the issue of electronic signatures on Letters of Agency ("LOA's"). The question was whether or not Mt. Carmel should be required to accept electronic signatures for LOA's provided by an Alternate Retail Electric Supplier. Staff contends that this would allow the customer to enroll with a supplier over the internet by executing the necessary documentation, known as an LOA, through electronic means. This position was presented by Staff witness Schlaf (Staff Ex. 4.0) who stated that such a procedure, in his opinion, would minimize marketing costs which may encourage the entry of some marketers into the residential market. However, Dr. Schlaf also stated that he could not definitively conclude that the request for a written "wet" signature has retarded the development of switching suppliers, since

several thousand customers have switched to delivery services, mostly in the service area of Commonwealth Edison Company. (Staff Ex. 4.0, p.6) This is a position that Staff has taken in the residential delivery service tariff proceedings of all other electric utilities before the Commission.

Mt. Carmel did not expressly oppose Staff's recommendation, but felt that this was a legal issue which may or may not be authorized by statute.

Staff filed an Initial Brief setting forth its position that as a general proposition, customers should be allowed to switch electric service providers, by means of the LOA, using electronic signatures. However, because of Mt. Carmel's unique position, and having been exempted from the uniformity requirements of Docket No. 00-0494, Staff concluded that Mt. Carmel should be exempted from this requirement at this time. Mt. Carmel filed a Reply Brief accepting the exemption and declaring the point as moot, but Mt. Carmel did not waive its rights to argue this or related issues in the future.

The Commission concludes that Mt. Carmel is exempt at this time from modifying its delivery services tariffs to allow suppliers operating in their service territory to use electronic signatures to satisfy LOA requirements. However, the Commission may re-examine this issue at a later date.

IX. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) Mt. Carmel is an Illinois corporation engaged in the transmission, distribution, and sale of electricity to customers at retail in Illinois, and as such is a public utility within the meaning of the Act;
- (2) the Commission has jurisdiction over Mt. Carmel and the subject matter herein;
- (3) the recitals of facts and conclusions reached in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact;
- (4) the test year for the determination of the delivery services rates for residential customers approved herein is the historic year ending December 31, 2000, such test year is appropriate for purposes of this proceeding;
- (5) for purposes of this proceeding, Mt. Carmel's residential delivery services revenue requirement is \$2,251,347;
- (6) Mt. Carmel's residential delivery service tariffs, residential delivery services implementation plan, and the modification of certain delivery service terms and conditions as proposed or as otherwise modified by

agreement during the course of these proceedings are hereby deemed to be just and reasonable, and Mt. Carmel is authorized to file such tariff sheets as to be in compliance with this Order and to be applicable to service furnished on and after an effective date of May 1, 2002;

- (7) Mt. Carmel is directed to file the new tariff sheets authorized by this Order within 20 days from the date of this Order to allow sufficient time for Staff review and for submission of corrected pages, if necessary, before the effective date of May 1, 2002;
- (8) All objections, petitions, or motions in these proceedings that remain undisposed of should be disposed of in a manner consistent with the ultimate conclusions contained in this Order.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Mt. Carmel Public Utility Company is hereby authorized and directed to file new tariff sheets for its residential delivery service tariffs as well as tariff sheets modifying the delivery services terms and conditions in a manner consistent herewith.

IT IS FURTHER ORDERED that Mt. Carmel Public Utility Company's residential delivery services implementation plan is hereby approved in accordance with the Commission's findings and conclusions herein.

IT IS FURTHER ORDERED that Mt. Carmel Public Utility Company shall comply with Finding (7) of this Order.

IT IS FURTHER ORDERED that any objections, petitions or motions in these proceedings which remain undisposed of are hereby disposed of in a manner consistent with the ultimate conclusions herein contained.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code Section 200.800, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 6th day of February, 2002.

(SIGNED) RICHARD L. MATHIAS

Chairman

(S E A L)